

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

JOHN MARTIN SPAULDING,

Petitioner,

vs.

Case No.: 3:23-cv-725-MMH-LLL
3:12-cr-159-MMH-LLL

UNITED STATES OF AMERICA,

Respondent.

_____ /

ORDER

THIS CAUSE is before the Court on Petitioner John Martin Spaulding's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence. (Civ. Doc. 1).¹ Petitioner argues that he is entitled to relief from his sentence in light of United States v. Davis, 139 S. Ct. 2319 (2019) and United States v. Taylor, 142 S. Ct. 2015 (2022). See Civ. Doc. 1.

Because Petitioner previously moved to vacate his sentence under 28 U.S.C. § 2255 (see Case No. 3:16-cv-841-MMH-JRK, Doc. 1), and because the Court denied the first motion to vacate on the merits (Case No. 3:16-cv-841-MMH-JRK, Doc. 38), Petitioner was required to apply to the Eleventh Circuit

¹ Citations to the record in the underlying criminal case, United States of America vs. John Martin Spaulding, Case No. 3:12-cr-159-MMH-LLL, will be denoted as "Crim. Doc. ____." Citations to the record in the civil case, Case No. 3:23-cv-725-MMH-LLL, will be denoted as "Civ. Doc. ____."

Court of Appeals for permission to file a second or successive motion to vacate. See 28 U.S.C. § 2244(b)(3)(A) (“Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.”). On June 28, 2023, the Eleventh Circuit Court of Appeals dismissed Petitioner’s application. (Crim. Doc. 84).

Under 28 U.S.C. § 2255, “[a] second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals....” 28 U.S.C. § 2255(h). “Without authorization, the district court lacks jurisdiction to consider a second or successive petition.” United States v. Holt, 417 F.3d 1172, 1175 (11th Cir. 2005) (citing Farris v. United States, 333 F.3d 1211, 1216 (11th Cir. 2003)). Because the Eleventh Circuit dismissed Petitioner’s application to file a second or successive motion to vacate, the Court lacks jurisdiction over the current § 2255 motion.

Accordingly, it is hereby

ORDERED:

1. Petitioner John Martin Spaulding’s Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Civ. Doc. 1) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

2. Petitioner's Motion to Hold 28 U.S.C. § 2255 Proceedings in Abeyance (Crim. Doc. 82) is **DENIED AS MOOT**.

3. The Clerk shall enter judgment dismissing this matter without prejudice and close the file.

DONE AND ORDERED at Jacksonville, Florida this 7th day of July, 2023.


MARCIA MORALES HOWARD
United States District Judge

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Copies:

Counsel of Record
Petitioner John Martin Spaulding